

**FILED**

**OCT 30 2012**

Clerk, U.S. District Court  
District Of Montana  
Missoula

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

WAYNE HUSSAR,	)	CV 12-76-M-DLC-JCL
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
MS. ABENDROTH (Missoula's	)	
MASC Counselor) and MS. MARY-	)	
ELLEN (Missoula's MSCA I.P.P.O.),	)	
	)	
Defendants.	)	
_____	)	

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation on October 4, 2012, and recommended dismissing Plaintiff Wayne Hussar's amended complaint with prejudice for failure to state a claim for relief against any of the named Defendants. Plaintiff did not timely object to the Findings and Recommendation, and so has waived the right to de novo review of

the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Hussar filed his amended complaint after being granted leave by Judge Lynch in his Order of August 7, 2012. After prescreening review, Judge Lynch found that the amended complaint failed to state a federal claim for relief. Further, Judge Lynch concluded that Hussar has been given an opportunity to amend defects in his original complaint and failed to do so. After a review of Judge Lynch’s Findings and Recommendation, I find no clear error. Accordingly,

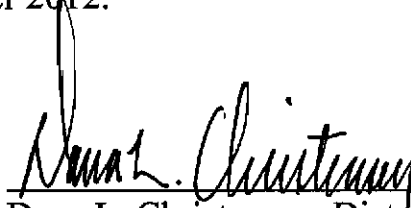
IT IS HEREBY ORDERED that Judge Lynch’s Findings and Recommendation (doc. 11) are adopted in full. This matter is DISMISSED WITH PREJUDICE.

The Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that the docket shall reflect that the Court certifies pursuant to Fed.R.App.P. 24(a)(3)(A) that any appeal of this decision would not be taken in good faith. The docket shall also reflect this dismissal

counts as a strike pursuant to 28 U.S.C. § 1915(g).

DATED this 30<sup>th</sup> day of October 2012.

A handwritten signature in black ink, appearing to read "Dana L. Christensen", is written over a horizontal line.

Dana L. Christensen, District Judge  
United States District Court